

AMENDED IN ASSEMBLY MARCH 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1973

Introduced by Assembly Member Bermudez

February 9, 2006

An act to amend Section ~~337j~~ 19805 of the *Business and Profession Code*, and to amend Section 330.11 of the Penal Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 1973, as amended, Bermudez. Gambling control.

Existing law relating to legalized gambling defines and regulates controlled games. Existing law ~~prohibits a player fee from being calculated as a fraction or percentage of wagers made or winnings earned. Existing law also authorizes flat fees on each wager to be assessed at different collection rates, but no more than 3 collection rates may be established per table~~ defines a banked game for these purposes and prohibits a gambling establishment, defined as the house, from occupying the player-dealer position in a banked game.

This bill would ~~increase that amount to 5 collection rates per table~~ specify that the prohibition on occupying the player-dealer position means that the house shall not use its funds, and a key employee shall not use his or her funds, in a controlled game and be able to directly benefit from the winnings and suffer the losses of the wagers.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 19805 of the Business and Professions*
2 *Code is amended to read:*

3 19805. As used in this chapter, the following definitions shall
4 apply:

5 (a) “Affiliate” means a person who, directly or indirectly
6 through one or more intermediaries, controls, is controlled by, or
7 is under common control with, a specified person.

8 (b) “Applicant” means any person who has applied for, or is
9 about to apply for, a state gambling license, a key employee
10 license, a registration, a finding of suitability, a work permit, a
11 manufacturer’s or distributor’s license, or an approval of any act
12 or transaction for which the approval or authorization of the
13 commission or division is required or permitted under this
14 chapter.

15 (c) “Banking game” or “banked game” does not include a
16 controlled game if the published rules of the game feature a
17 player-dealer position and provide that this position must be
18 continuously and systematically rotated amongst each of the
19 participants during the play of the game, ensure that the
20 player-dealer is able to win or lose only a fixed and limited
21 wager during the play of the game, and preclude the house,
22 another entity, a player, or an observer from maintaining or
23 operating as a bank during the course of the game. For purposes
24 of this section it is not the intent of the Legislature to mandate
25 acceptance of the deal by every player if the division finds that
26 the rules of the game render the maintenance of or operation of a
27 bank impossible by other means. The house shall not occupy the
28 player-dealer position. *This prohibition on occupying the*
29 *player-dealer position means that the house shall not use its*
30 *funds, and a key employee shall not use his or her funds, in a*
31 *controlled game and be able to directly benefit from the winnings*
32 *and suffer the losses of the wagers.*

33 (d) “Commission” means the California Gambling Control
34 Commission.

35 (e) “Controlled gambling” means to deal, operate, carry on,
36 conduct, maintain, or expose for play any controlled game.

37 (f) “Controlled game” means any controlled game, as defined
38 by subdivision (e) of Section 337j of the Penal Code.

1 (g) "Director," when used in connection with a corporation,
2 means any director of a corporation or any person performing
3 similar functions with respect to any organization. In any other
4 case, "director" means the Director of the Division of Gambling
5 Control.

6 (h) "Division" means the Division of Gambling Control in the
7 Department of Justice.

8 (i) "Finding of suitability" means a finding that a person meets
9 the qualification criteria described in subdivisions (a) and (b) of
10 Section 19857, and that the person would not be disqualified
11 from holding a state gambling license on any of the grounds
12 specified in Section 19859.

13 (j) "Game" and "gambling game" means any controlled game.

14 (k) "Gambling" means to deal, operate, carry on, conduct,
15 maintain, or expose for play any controlled game.

16 (l) "Gambling enterprise employee" means any natural person
17 employed in the operation of a gambling enterprise, including,
18 without limitation, dealers, floor personnel, security employees,
19 countroom personnel, cage personnel, collection personnel,
20 surveillance personnel, data-processing personnel, appropriate
21 maintenance personnel, waiters and waitresses, and secretaries,
22 or any other natural person whose employment duties require or
23 authorize access to restricted gambling establishment areas.

24 (m) "Gambling establishment," "establishment," or "licensed
25 premises" except as otherwise defined in Section 19812, means
26 one or more rooms where any controlled gambling or activity
27 directly related thereto occurs.

28 (n) "Gambling license" or "state gambling license" means any
29 license issued by the state that authorizes the person named
30 therein to conduct a gambling operation.

31 (o) "Gambling operation" means exposing for play one or
32 more controlled games that are dealt, operated, carried on,
33 conducted, or maintained for commercial gain.

34 (p) "Gross revenue" means the total of all compensation
35 received for conducting any controlled game, and includes
36 interest received in payment for credit extended by an owner
37 licensee to a patron for purposes of gambling, except as provided
38 by regulation.

39 (q) "House" means the gambling establishment, and any
40 owner, shareholder, partner, key employee, or landlord thereof.

(r) “Independent agent,” except as provided by regulation, means any person who does either of the following:

(1) Collects debt evidenced by a credit instrument.

(2) Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

(s) “Institutional investor” means any retirement fund administered by a public agency for the exclusive benefit of federal, state, or local public employees, any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), any collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, any closed-end investment trust, any chartered or licensed life insurance company or property and casualty insurance company, any banking and other chartered or licensed lending institution, any investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that capacity, and other persons as the commission may determine for reasons consistent with the policies of this chapter.

(t) “Key employee” means any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, including, without limitation, pit bosses, shift bosses, credit executives, cashier operations supervisors, gambling operation managers and assistant managers, managers or supervisors of security employees, or any other natural person designated as a key employee by the division for reasons consistent with the policies of this chapter.

(u) “Key employee license” means a state license authorizing the holder to be associated with a gambling enterprise as a key employee.

(v) “Licensed gambling establishment” means the gambling premises encompassed by a state gambling license.

(w) “Limited partnership” means a partnership formed by two or more persons having as members one or more general partners and one or more limited partners.

(x) “Limited partnership interest” means the right of a general or limited partner to any of the following:

(1) To receive from a limited partnership any of the following:

1 (A) A share of the revenue.

2 (B) Any other compensation by way of income.

3 (C) A return of any or all of his or her contribution to capital
4 of the limited partnership.

5 (2) To exercise any of the rights provided under state law.

6 (y) "Owner licensee" means an owner of a gambling
7 enterprise who holds a state gambling license.

8 (z) "Person," unless otherwise indicated, includes a natural
9 person, corporation, partnership, limited partnership, trust, joint
10 venture, association, or any other business organization.

11 (aa) "Player" means a patron of a gambling establishment who
12 participates in a controlled game.

13 (bb) "Player-dealer" and "controlled game featuring a
14 player-dealer position" refer to a position in a controlled game, as
15 defined by the approved rules for that game, in which seated
16 player participants are afforded the temporary opportunity to
17 wager against multiple players at the same table, provided that
18 this position is rotated amongst the other seated players in the
19 game.

20 (cc) "Publicly traded racing association" means a corporation
21 licensed to conduct horse racing and simulcast wagering pursuant
22 to Chapter 4 (commencing with Section 19400) whose stock is
23 publicly traded.

24 (dd) "Qualified racing association" means a corporation
25 licensed to conduct horse racing and simulcast wagering pursuant
26 to Chapter 4 (commencing with Section 19400) that is a wholly
27 owned subsidiary of a corporation whose stock is publicly traded.

28 (ee) "Work permit" means any card, certificate, or permit
29 issued by the commission, or by a county, city, or city and
30 county, whether denominated as a work permit, registration card,
31 or otherwise, authorizing the holder to be employed as a
32 gambling enterprise employee or to serve as an independent
33 agent. A document issued by any governmental authority for any
34 employment other than gambling is not a valid work permit for
35 the purposes of this chapter.

36 *SEC. 2. Section 330.11 of the Penal Code is amended to*
37 *read:*

38 330.11. "Banking game" or "banked game" does not include
39 a controlled game if the published rules of the game feature a
40 player-dealer position and provide that this position must be

1 continuously and systematically rotated amongst each of the
2 participants during the play of the game, ensure that the
3 player-dealer is able to win or lose only a fixed and limited
4 wager during the play of the game, and preclude the house,
5 another entity, a player, or an observer from maintaining or
6 operating as a bank during the course of the game. For purposes
7 of this section it is not the intent of the Legislature to mandate
8 acceptance of the deal by every player if the division finds that
9 the rules of the game render the maintenance of or operation of a
10 bank impossible by other means. The house shall not occupy the
11 player-dealer position. *This prohibition on occupying the*
12 *player-dealer position means that the house shall not use its*
13 *funds, and a key employee shall not use his or her funds, in a*
14 *controlled game and be able to directly benefit from the winnings*
15 *and suffer the losses of the wagers.*

16 SECTION 1. ~~Section 337j of the Penal Code is amended to~~
17 ~~read:~~

18 ~~337j. (a) It is unlawful for any person, as owner, lessee, or~~
19 ~~employee, whether for hire or not, either solely or in conjunction~~
20 ~~with others, to do any of the following without having first~~
21 ~~procured and thereafter maintained in effect all federal, state, and~~
22 ~~local licenses required by law:~~

23 ~~(1) To deal, operate, carry on, conduct, maintain, or expose for~~
24 ~~play in this state any controlled game.~~

25 ~~(2) To receive, directly or indirectly, any compensation or~~
26 ~~reward or any percentage or share of the revenue, for keeping,~~
27 ~~running, or carrying on any controlled game.~~

28 ~~(3) To manufacture, distribute, or repair any gambling~~
29 ~~equipment within the boundaries of this state, or to receive,~~
30 ~~directly or indirectly, any compensation or reward for the~~
31 ~~manufacture, distribution, or repair of any gambling equipment~~
32 ~~within the boundaries of this state.~~

33 ~~(b) It is unlawful for any person to knowingly permit any~~
34 ~~controlled game to be conducted, operated, dealt, or carried on in~~
35 ~~any house or building or other premises that he or she owns or~~
36 ~~leases, in whole or in part, if that activity is undertaken by a~~
37 ~~person who is not licensed as required by state law, or by an~~
38 ~~employee of that person.~~

39 ~~(c) It is unlawful for any person to knowingly permit any~~
40 ~~gambling equipment to be manufactured, stored, or repaired in~~

1 any house or building or other premises that the person owns or
2 leases, in whole or in part, if that activity is undertaken by a
3 person who is not licensed as required by state law, or by an
4 employee of that person.

5 (d) Any person who violates, attempts to violate, or conspires
6 to violate this section shall be punished by imprisonment in a
7 county jail for not more than one year or by a fine of not more
8 than ten thousand dollars (\$10,000), or by both imprisonment and
9 fine. A second offense of this section is punishable by
10 imprisonment in a county jail for a period of not more than one
11 year or in the state prison or by a fine of not more than ten
12 thousand dollars (\$10,000), or by both imprisonment and fine.

13 (e) (1) As used in this section, "controlled game" means any
14 poker or Pai Gow game, and any other game played with cards or
15 tiles, or both, and approved by the Division of Gambling Control,
16 and any game of chance, including any gambling device, played
17 for currency, check, credit, or any other thing of value that is not
18 prohibited and made unlawful by statute or local ordinance.

19 (2) As used in this section, "controlled game" does not include
20 any of the following:

21 (A) The game of bingo conducted pursuant to Section 326.5.

22 (B) Parimutuel racing on horse races regulated by the
23 California Horse Racing Board.

24 (C) Any lottery game conducted by the California State
25 Lottery.

26 (D) Games played with cards in private homes or residences,
27 in which no person makes money for operating the game, except
28 as a player.

29 (f) This subdivision is intended to be dispositive of the law
30 relating to the collection of player fees in gambling
31 establishments. A fee may not be calculated as a fraction or
32 percentage of wagers made or winnings earned. The amount of
33 fees charged for all wagers shall be determined prior to the start
34 of play of any hand or round. However, the gambling
35 establishment may waive collection of the fee or portion of the
36 fee in any hand or round of play after the hand or round has
37 begun pursuant to the published rules of the game and the notice
38 provided to the public. The actual collection of the fee may occur
39 before or after the start of play. Ample notice shall be provided to
40 the patrons of gambling establishments relating to the assessment

1 of fees. Flat fees on each wager may be assessed at different
2 collection rates, but no more than five collection rates may be
3 established per table. However, if the gambling establishment
4 waives its collection fee, this fee does not constitute one of the
5 five collection rates.

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